

For immediate release

**NEW RULES INTRODUCED FOR SINGAPORE INTERNATIONAL COMMERCIAL COURT
TO DEAL WITH CROSS-BORDER CORPORATE INSOLVENCY, RESTRUCTURING AND
DISSOLUTION MATTERS**

*Singapore International Commercial Court (Amendment No. 2) Rules 2022 and the Legal
Profession (Representation in Singapore International Commercial Court) (Amendment No. 2)
Rules 2022*

The Singapore International Commercial Court (Amendment No. 2) Rules 2022 and the Legal Profession (Representation in Singapore International Commercial Court) (Amendment No. 2) Rules 2022 have effect from 1 October 2022.

2 The key changes made by the Singapore International Commercial Court (Amendment No. 2) Rules 2022 are an amendment to Order 21 of the Singapore International Commercial Court Rules 2021 (“SICC Rules”) and the addition of a new Order 23A of the SICC Rules. These changes introduce new processes in the Singapore International Commercial Court (“SICC”) relating to corporate insolvency, restructuring or dissolution proceedings that are international and commercial in nature, and offer restructuring outcomes that would appeal to both debtors and creditors. The SICC has an established reputation for neutrality, which allows it to play an important role in facilitating cross-border corporate insolvency proceedings where the laws of different jurisdictions are at play.

3 The Legal Profession (Representation in Singapore International Commercial Court) (Amendment No. 2) Rules 2022 facilitate the participation of foreign lawyers in corporate insolvency, restructuring and dissolution proceedings before the SICC.

4 One developing area in corporate insolvency practice concerns cryptocurrency-related filings. The General Division of the Singapore High Court has seen an increase in corporate insolvency filings related to cryptocurrency markets. Zipmex, and Defi Payments of the Vault Group, for example, recently filed for moratorium protection. Foreign representatives of the crypto hedge fund, Three Arrows Capital filed for recognition in Singapore of liquidation proceedings commenced in the British Virgin Islands. With the new Rules, such proceedings that are commenced in the General Division may be transferred to the SICC if the jurisdictional requirements are satisfied.

5 The SICC is uniquely positioned to deal with foreign law issues, which commonly arise in cross-border matters, and has a robust framework for international dispute resolution that

reinforces Singapore's ability to serve as a preferred nodal jurisdiction. The legislative changes made by the Singapore International Commercial Court (Amendment No. 2) Rules 2022 and the Legal Profession (Representation in Singapore International Commercial Court) (Amendment No. 2) Rules 2022 mark an important step in the development of the restructuring and insolvency landscape in Singapore and across the broader region.

6 The key highlights of the Singapore International Commercial Court (Amendment No. 2) Rules 2022 and the Legal Profession (Representation in Singapore International Commercial Court) (Amendment No. 2) Rules 2022 are in **ANNEX A**. The details of the Singapore International Commercial Court (Amendment No. 2) Rules 2022 are available on the SICC website at <https://go.gov.sg/sicc-sicc-rules-2021> and on Singapore Statutes Online at <https://go.gov.sg/siccamendmentno2rules2022>. Details of the Legal Profession (Representation in Singapore International Commercial Court) (Amendment No. 2) Rules 2022 are available on Singapore Statutes Online at <https://go.gov.sg/legalprofessionact2022>.

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About the Singapore International Commercial Court

The Singapore International Commercial Court (SICC) is a division of the General Division of the Singapore High Court. Established in 2015, the SICC has gained a reputation as a leading and trusted neutral forum for effective transnational dispute resolution. The SICC bench comprises a diverse panel of eminent international and local Judges experienced in specialist commercial disputes. Described as “arbitration in litigation”, the SICC combines the best practices of international arbitration with the substantive principles of international commercial law. Procedures are flexible and may be tailored to suit parties' preferences in many aspects, and foreign lawyers may represent parties in certain circumstances. Yet the SICC retains the key advantages of litigation such as the right of appeal and published judgments, as well as issuing orders for the joinder of third and related parties – vital in multi-party/multi-contract scenarios. Parties around the world choose to resolve their disputes before the SICC because it offers a truly unique and cost-effective dispute resolution option.

For more information, please visit www.sicc.gov.sg.

Key Highlights:

New Rules Introduced in Relation to Cross-Border Corporate Insolvency, Restructuring and Dissolution Matters

The Singapore International Commercial Court (SICC) (Amendment No. 2) Rules 2022, which came into force on 1 October 2022, predominantly spotlight the new Order 23A of the SICC Rules 2021.

Key Features:

SICC's jurisdiction to hear corporate insolvency, restructuring and dissolution proceedings

- The SICC has jurisdiction to hear corporate insolvency, restructuring and dissolution proceedings under Parts 3 to 12 and 22 of the Insolvency, Restructuring and Dissolution Act 2018 (IRDA). These include proceedings relating to the following matters:
 - schemes of arrangement;
 - judicial management;
 - winding up;
 - the UNCITRAL Model Law on Cross-Border Insolvency.
- The SICC's jurisdiction to hear corporate insolvency, restructuring and dissolution proceedings is contingent on the proceedings being international and commercial in nature.
- Such proceedings are international in nature if at least one of the following factors applies to the subject of the proceedings (i.e. the debtor entity) at the commencement of the proceedings:
 - the subject has a place of business in a foreign country;
 - the subject has at least an asset or property in a foreign country;
 - the subject has at least a liability that arose in a foreign country;
 - the subject has at least a contractual obligation that has been or is to be performed in a foreign country, or that was or is owed to a person in a foreign country;
 - the subject has obligations and liabilities that are governed by the laws of one or more foreign countries;
 - at least one creditor of the subject has a place of business in a foreign country;
 - the control and direction of the subject is administered from a foreign country.
- Such proceedings are commercial in nature if the subject of the proceedings and any affected person have a relationship of a commercial nature, whether contractual or not.



Transfers from the General Division to the SICC

- Before an order for the transfer of any corporate insolvency, restructuring or dissolution proceedings is made by the General Division (either on its own motion or on the application of a party):
 - notice must first be given by the applicant or claimant in the proceedings (in a case where the order is to be made by the General Division on its own motion), or by the party applying for the transfer, to the other parties in the proceedings and certain affected persons; and
 - the General Division must give the applicant or claimant or the party applying for the transfer (as the case may be), every other party in the insolvency proceedings, and certain affected persons, a reasonable opportunity to be heard.
- The General Division may make any order in those insolvency proceedings as a consequence of the transfer; SICC may likewise do so provided that its order is not inconsistent with any order made by the General Division.



The Rules applicable to corporate insolvency, restructuring and dissolution proceedings heard by the SICC

- In any insolvency proceedings, the IRDA and the Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020 (CIR Rules) apply with the necessary modifications, with the SICC Rules to be read subject to the IRDA and the CIR Rules.
- Where there is no express provision in the IRDA or the CIR Rules on any matter of practice or procedure, SICC may:
 - adopt such practice or procedure under the SICC Rules as the court considers appropriate; or
 - make such orders and give such directions as are likely to secure substantial justice between the parties.
- The milestone fees for corporate insolvency, restructuring or dissolution proceedings in the SICC are payable:
 - by the applicant or claimant: upon the filing of the originating application, as well as when the applicant or claimant receives its first notification of a hearing for directions on case management, and when filing an interlocutory application.
 - by an affected person (other than the applicant or claimant in the origination application) that wishes to actively participate in the proceedings: upon the filing of the affected person's first document in the proceedings, as well as when that person files an interlocutory application.



Legal representation in corporate insolvency, restructuring and dissolution proceedings in SICC

- Permission from the SICC must first be obtained before a foreign lawyer registered under section 36P(1) of the Legal Profession Act 1966 (full registration foreign lawyer) or a solicitor registered under section 36E of the Legal Profession Act 1966 (section 36E solicitor) may act in the corporate insolvency, restructuring and dissolution proceedings.
- An application to represent a party may be made by the full registration foreign lawyer or the section 36E solicitor and may be made before, at the same time as, or after the commencement of the proceeding:
 - if the application is made prior to the commencement of the proceeding, it may be made by an originating application; in any other case, by way of a summons; and
 - must also be supported by a witness statement that is made by the applicant.
- Full registration foreign lawyers and section 36E solicitors are precluded from making submissions on any matter of Singapore law in corporate insolvency, restructuring and dissolution proceedings before the SICC.



These Key Features serve to provide general information on certain points of note and are for reference purposes only. Reference should always be made to the relevant provisions in the Singapore International Commercial Court (Amendment No. 2) Rules 2022. These Key Features are not in any way binding on the SICC. They are not intended to be, and should not be construed as, legal advice and should not be relied upon as such. For further information, please refer to the Singapore International Commercial Court (Amendment No. 2) Rules 2022 and information on the SICC website at www.sicc.gov.sg.